

EXHIBIT C
Part 3 of 3

1 led to a terrible tragedy, sir. I definitely
2 did not take the weapon away from her intending
3 to shoot her.

4 **DEPUTY DISTRICT ATTORNEY SHESS:** Can
5 the inmate explain then how the gun got placed
6 at the back of her skull and the gun was fired,
7 since it didn't fire itself?

8 **ATTORNEY FOX:** Objections. Move to
9 strike.. That's argumentative.

10 **PRESIDING COMMISSIONER SAWYER:** I'll
11 sustain that objections, but -- and we're really
12 not retrying the case here, Counsel. We're just
13 trying to determine suitability for parole.

14 **DEPUTY DISTRICT ATTORNEY SHESS:** I
15 understand that Commissioner, but he
16 specifically said today that this was an
17 unintentional act. The act of firing a gun is
18 an intentional act. Pulling a trigger is an
19 intentional act. The placement of a gun is an
20 intentional act. I think it certainly goes to
21 his insight, and his understanding, and his
22 ability to accept responsibility, which is a
23 fundamental threshold issue prior to determining
24 suitability. I'd ask that commissioner
25 reconsider?

26 **PRESIDING COMMISSIONER SAWYER:** Well,
27 now then bring it up in your closing argument as

1 opposed to questions.

2 **DEPUTY DISTRICT ATTORNEY SHESS:** With
3 regards then to the psychiatric report, which
4 Mr. McNeil referred to in 2003, in the
5 psychiatric report, the inmate stated -- this is
6 the one August 11, '03, stated that he never
7 battered his wife. My question, Commissioner,
8 to the inmate then is if he could explain the
9 statements that he made to Sergeant Parker about
10 battering his wife in October of 1987, including
11 trying to slap her, kicking at her, hitting her
12 with his hand, and saying to her that he was
13 going to kick her ass?

14 **ATTORNEY FOX:** Was that the same one
15 where she threatened to slash the tires on his
16 car, the internal investigation?

17 **DEPUTY DISTRICT ATTORNEY SHESS:** I'm
18 referring to the October 20, 1987, incident --
19 and I'm specifically asking the question,
20 Commissioner, because he has said to the
21 psychiatrist in '03, I never battered my wife.
22 This is the most recent report we have. Some of
23 the conclusions reached by this psychiatrist are
24 based on his representations, so I'm asking him
25 to clarify how he can reconcile those two issues
26 what he said to Sergeant Parker and what he told
27 the psychiatrist?

1 **PRESIDING COMMISSIONER SAWYER:** Can you
2 do that, sir?

3 **ATTORNEY FOX:** And that is from the
4 investigator's report.

5 **INMATE AGRIO:** During the time that I
6 was being interviewed by the psychiatrist and we
7 were talking about the situation, I honestly had
8 no recollection of this particular incident
9 being reported. I was going based on what my
10 belief was of our relationship. Now since that
11 time and this report has surfaced, and I have
12 read it in its entirety, and it is true that we
13 did have a bad situation at that time, and if
14 the report is read entirely, then you will see
15 that, without blaming anyone else for anything,
16 that there was fault on both sides, and my wife
17 acknowledged that and asked the investigators to
18 drop the report. However, that's not to say
19 that I acted inappropriately on that day and
20 this was again an ongoing manifestation of a
21 problem that I had then but I no longer have.

22 **ATTORNEY FOX:** I think you misspoke. I
23 think you just said that this was not
24 inappropriate behavior?

25 **INMATE AGRIO:** No, inappropriate
26 behavior on my part.

27 **ATTORNEY FOX:** Okay. It was

1 inappropriate behavior?

2 **INMATE AGRIO:** It was inappropriate
3 behavior on my part.

4 **ATTORNEY FOX:** I just wanted that to be
5 clear.

6 **PRESIDING COMMISSIONER SAWYER:** In
7 retrospect it's inappropriate?

8 **INMATE AGRIO:** No, sir not in -- it is
9 inappropriate always.

10 **PRESIDING COMMISSIONER SAWYER:** Okay.

11 **DEPUTY DISTRICT ATTORNEY SHESS:** So I
12 just want to make sure we are both hearing the
13 same thing. Is the inmate admitting that in
14 fact he did batter his wife? Regardless of the
15 circumstances of that incident, he did batter
16 his wife --

17 **INMATE AGRIO:** Yes.

18 **DEPUTY DISTRICT ATTORNEY SHESS:** -- in
19 the past? So what he told the psychiatrist in
20 2003, was incorrect because he did not think it
21 had been reported, but since then he has read
22 the report? Is that correct?

23 **INMATE AGRIO:** I didn't mention it to
24 the psychiatrist because I didn't have a present
25 recollection at that time.

26 **DEPUTY DISTRICT ATTORNEY SHESS:** Okay.
27 He also indicated to the psychiatrist that he

1 was no longer -- excuse me, to the probation
2 officer very early on he talked about himself
3 being a very much perfectionist, and the
4 psychiatrist then in 2003, alludes to that
5 saying he know longer exhibits the tendency to
6 maintain control of his life. My question,
7 Commissioner, is we have a situation this
8 afternoon where he is just described to a very,
9 I think, kind of complicated effort to control
10 not only his life but the life of his friend
11 Rosy Hall and that of Cathleen Boyd, his wife --

12 **PRESIDING COMMISSIONER SAWYER:** What's
13 the question?

14 **DEPUTY DISTRICT ATTORNEY SHESS:** The
15 question is he says that his wife does not know
16 about Rosy Hall --

17 **ATTORNEY FOX:** Objection --

18 **DEPUTY DISTRICT ATTORNEY SHESS:** --
19 correct?

20 **ATTORNEY FOX:** -- misstates the
21 evidence.

22 **DEPUTY DISTRICT ATTORNEY SHESS:** I
23 believe the commissioner asked the question does
24 your wife know about Rosy Hall.

25 **PRESIDING COMMISSIONER SAWYER:** Yes,
26 she does. He doesn't -- his wife doesn't know
27 that Rosy Hall is his second alternative for his

1 parole plan.

2 **DEPUTY DISTRICT ATTORNEY SHESS:** Okay.

3 And then my question is why has he not been
4 honest with his wife about parole plans with
5 another woman?

6 **PRESIDING COMMISSIONER SAWYER:** That's
7 a good question.

8 **INMATE AGRIO:** Because I fully except
9 to be paroled to Morro Bay and in the event that
10 that's not the case, then I would have to
11 explain to her what the alternative is.

12 **PRESIDING COMMISSIONER SAWYER:** Okay.

13 **DEPUTY DISTRICT ATTORNEY SHESS:** He
14 also said just a few moments ago that today the
15 man he sits -- that sits before you today has a
16 great deal of respect for woman. Can he explain
17 how that attitude towards his own wife is
18 demonstrating the respect for woman, which he
19 says he has gained all these many years?

20 **ATTORNEY FOX:** I'm not sure that
21 question makes since. He's saying that he
22 gained the respect over the years since he's
23 been incarcerated. Do you understand the
24 question?

25 **INMATE AGRIO:** I this I understand what
26 the district attorney's getting at, and you know
27 she may very well have a point there, ho

1 however, respect is not simply in terms of
2 whether you're not totally and completely
3 forthright with something to of this regard.
4 Respect is in the way you treat someone and I've
5 always treated my wife with consideration, with
6 empathy, and understanding. We have a loving
7 relationship and I believe that if I'm found
8 suitable for parole and I'm granted parole to go
9 to Morro Bay and live with her that that would
10 allow us to grow in our relationship and then
11 there wouldn't be any need for letter to know
12 about anything else because what would be the
13 point. She's not trying to push me away from
14 her. She's trying to get me to go live with
15 her, and I'm just presenting to the board an
16 alternative situation in which if I'm to be
17 paroled to San Diego that, you know, the board
18 cannot say that I don't have parole plans for
19 San Diego therefore we cannot find you suitable.
20 I do have parole plans and it's with a friend
21 and she knows Rosy is my friend, so I don't see
22 where I would be disrespecting her by what I'm
23 doing.

24 **DEPUTY DISTRICT ATTORNEY SHESS:** I
25 don't have any other questions. Thank you,
26 Commissioner.

27 **PRESIDING COMMISSIONER SAWYER:** Ms.

1 Fox?

2 **ATTORNEY FOX:** Just one. Why is it you
3 have no contact with your son?

4 **INMATE AGRIO:** Well, initially I was in
5 constant contact with my son, and he even came
6 to visit with me several times when I was housed
7 a San Louis Obispo. Eventually it became
8 increasingly difficult to maintain contact with
9 him because I had to call Mrs. Medina's home and
10 request permission to speak with him. This was
11 becoming traumatic for him, and during my last
12 conversation with him, he requested that I no
13 longer contact him so as to avoid any grief to
14 him and I honored his wishes.

15 **ATTORNEY FOX:** And when was that?

16 **INMATE AGRIO:** That was several years
17 ago. He was still very young and I have not
18 attempted to get in touch with him anymore
19 because quite frankly I'm afraid that any
20 attempt on my part to get in touch with him
21 might be misconstrued by Mrs. Medina and by the
22 district attorney's office. That has happened
23 before and I don't wish to bring harm to them or
24 to myself, so I have refrained from doing that.
25 At the request of my attorney I wrote a letter
26 to him to address an issue that was brought up
27 at my last hearing where I was accused of

1 abandoning my son and that's not true at all.
2 The explanation that I'm giving today, that's
3 the truth. I love him very much, and I wish
4 that someday we could come together and talk as
5 adults about what happened and maybe I can offer
6 some guidance and support to him.

7 **ATTORNEY FOX:** Did you bring that
8 letter with you today?

9 **INMATE AGRIO:** Yes, ma'am.

10 **ATTORNEY FOX:** Could I have that to
11 give to the commissioners? Thank you.

12 **INMATE AGRIO:** Should I sign it?

13 **ATTORNEY FOX:** Yeah. And then what I'd
14 request if its appropriate that it be given to
15 the office of the district attorney to be
16 forwarded in the event it's not to do more harm
17 than good.

18 **PRESIDING COMMISSIONER SAWYER:** I don't
19 want anybody being injured here.

20 **ATTORNEY FOX:** Okay, and then I'll have
21 no further question.

22 **PRESIDING COMMISSIONER SAWYER:** Okay.
23 Would you like to close?

24 **DEPUTY DISTRICT ATTORNEY SHESS:** Yes,
25 Commissioner. I'd like to begin by quoting
26 something that his son wrote to this board in
27 1999, which was apparently about the time when

1 he decided he no longer wanted to have contact
2 with his father. He said: I say my father
3 should stay in prison. He took a life that will
4 never be replaced. I only have her memory in my
5 heart. I think the board needs to remember that
6 we are talking about the horrific death of a 23-
7 year-old woman, who had everything to live for,
8 as a result of the uncontrollable rage of this
9 inmate when, she could not be controlled by him.
10 Now, I recognize and I don't want to minimize
11 the fact that he clearly is bright. He's
12 clearly used his time in prison well. He's been
13 a model inmate. He apparently was a model
14 police officer even though he was beating his
15 wife, at least on occasion, and having control
16 issues with her while he was a police officer.
17 He apparently was a model Marine and did very
18 well there. He does very, very well in a
19 controlled situation, but based on what the
20 board has been presented here today and the
21 crime itself, he's not suitable for parole. He
22 does not have insight into what actually led him
23 to do this to the extent that I think our
24 community should have any measure of comfort in
25 how safe we're going to be from him specifically
26 woman that he gets involved with. He asked to
27 have certain words in his board report

1 mitigated. He wanted to change angry and
2 infuriated to upset, and I noted as you were
3 reading the report upset is repeated over and
4 over and over again. To his credit today he
5 does admit that he was in a rage over her
6 behavior, so those changes to that board report
7 were one other attempt on his part to try to
8 control the situation. He has two women who
9 apparently care for him. He's playing one off
10 against the other. He's not being honest with
11 his wife, the person who you would think at this
12 point in time who has gone so far out of her way
13 for him to have her friend's write letters to
14 the board to try and get work for him, he would
15 at least be honest with her about what is
16 apparently just a minor issue, an alternative
17 parole plan. He can't even bring himself to do
18 that. He is so much one of these people that
19 has to be in control of everything that's going
20 on in his personal life with the woman in his
21 life. I'm astounded to hear him refer to this
22 as an unintentional act given the physical
23 evidence and giving the record at trial in what
24 occurred here. He was contacted periodically
25 during the course of this evening, which he was
26 assaulting his wife and have fighting with her,
27 and that is why I asked whether he was accepting

1 as true the appellate facts, because in there he
2 did make comments about what was going on at the
3 time when -- to the babysitter, who had just
4 been taken home, what Alma did is going to cost
5 her. It's going to cost her a lot. To the
6 babysitter as well, upset in a rage about his
7 inability to control her and to control what was
8 going on in their life. She wants to do like
9 the fucking American whores. A friend calls to
10 make sure she's all right, obviously getting a
11 since of the environment there in the home and
12 knowing the history between the two of them, and
13 when he picks up the phone and she asks for Alma
14 he says, "yeah, she's here but I'm not finished
15 with her." I know we're not here to retry the
16 case but we are here to determine whether this
17 man actually understands what he did. The
18 physical evidence shows an execution-style
19 shooting. It is a contact wound. The testimony
20 at trial was that the gun was against the skin.
21 The path of the bullet is an execution-style
22 path. She was down on the floor. They had, had
23 an argument --

24 **ATTORNEY FOX:** Objection. We're not
25 here to retry the case. I think these comments
26 are calculated to appeal to the passions and
27 prejudices of the hearing panel. This is a

1 murder two conviction with a two-year
2 enhancement. It's not a murder-one execution
3 style. So I'd request admonition if the
4 district attorney can find her comments to the
5 suitability issues.

6 **PRESIDING COMMISSIONER SAWYER:** I think
7 she's attempting to show the rage involved in
8 this of the inmate, but if you could wrap it up.

9 **DEPUTY DISTRICT ATTORNEY SHESS:** I am.
10 The reason I bring all of these things up is
11 because he sits here today and says okay, I'm
12 not going to tell use it's an accident any
13 longer because nobodies ever going to buy that
14 but I'm going to tell you it's unintentional;
15 yet the physical evidence and his statements at
16 the time do not support what he is telling you
17 here today. Those along with everything else he
18 has said and specifically the fact that he
19 continues to lie to and to attempt control
20 people in his personal life here today show that
21 he does not have insight into what occurred then
22 and he is at risk for this occurring again. I
23 think the 2003 psychiatric report should be
24 disregarded in it's entirety given the fact that
25 he was dishonest with that therapist because he
26 didn't think that prior battery had been
27 reported. With that we're urging that you give

1 a maximum denial. We have the victim who he is
2 going to make a statement. Every year she has
3 to come back here. Every year she has to relive
4 this. Every year she has to think about the
5 daughter who is lost to her. I'd -- and it is
6 appropriate for the board to do this. I would
7 ask the board consider the impact on the
8 victim's mother, on her family. She can't speak
9 for herself but her mother is here to speak for
10 her.

11 PRESIDING COMMISSIONER SAWYER: Thank
12 you.

13 DEPUTY COMMISSIONER MITCHELL: Tape.

14 PRESIDING COMMISSIONER SAWYER: We're
15 going to change the tapes.

16 (off the record)

17 DEPUTY COMMISSIONER MITCHELL: We're
18 back on the record.

19 PRESIDING COMMISSIONER SAWYER: Is this
20 tape two?

21 DEPUTY COMMISSIONER MITCHELL: Yes.
22 This is tape two in the Agrio hearing and at
23 this time we will go do Ms. Fox for her closing.

24 ATTORNEY FOX: Thank you. Mr. Agrio
25 and I respectfully disagree with my colleague
26 from San Diego. Mr. Agrio would be a suitable
27 candidate for parole and should be found

1 suitable for the follow reasons one; the board
2 report is supportive and that includes an
3 extensive survey of his achievements since he's
4 been incarcerated and a thorough discussion of
5 his personal factors. No criminal conduct prior
6 to coming to prison with the exception of
7 something the district attorney has called
8 battery but a reading of the internal
9 investigation report may emerge something as
10 more accurately characterizes mutual combat. It
11 should be remembered and we're not blaming Alma
12 for anything here, but she was trained in
13 weapons as well. It should be remembered that
14 Pablo was in love with Alma. This was his wife
15 and the relationship was suffering as was
16 apparent in the different reports that are
17 contained in the file. Mr. Agrio cannot go back
18 and changes the facts of the crime of commitment
19 if he could he would. He spoken very eloquently
20 and completely and honest today with the panel
21 regarding the changes he has made in his life
22 and he's upgraded in every reasonable way,
23 educationally there's really little else he can
24 do accept maintain what he's doing, and
25 vocationally he has upgraded and taken a
26 certificate in the computer area. Remarkably
27 he's been disciplinary free and that's no mean

1 achievement in prison, so turning to the
2 psychological evaluation I would not be so
3 arrogant as to substituted my judgment for that
4 of the license clinical professional hired by
5 the Department of Corrections specifically to
6 advice this panel, and that writer has come to
7 the conclusion that Mr. Agrio, among other
8 things, has a global assessment functioning,
9 which Commissioner Mitchell has said is very
10 high and indeed it is. It's unusual but that
11 appears in inmates, and that just shows someone
12 who can get a long in society, who can resolve
13 disputes in a peaceful law-abiding manner, and
14 there's no doubt that Mr. Agrio will do that.
15 Turning to his parole plans he has three viable
16 sets of plans, which show great thought and
17 effort. He's preferred location would be Morro
18 Bay, which I believe is San Louis Obispo, county
19 and the panel -- or the board it would then be
20 within its power to order that. He does have a
21 backup plan in San Diego and then a fallback
22 plan out of state in Pennsylvania and what this
23 means also in the event that he would be ordered
24 to do parole in Morro Bay, he does have this
25 widespread consistent sustained support
26 throughout his family, friends people who have
27 stuck with him over the many, many years, so I

1 think it would be appropriate to find Mr. Agrio
2 suitable for parole and to set a date for his
3 release and I'll submit based on that unless
4 there's anything that Mr. Agrio would like to
5 share, and I believe he's prepared a written
6 statement.

7 **PRESIDING COMMISSIONER SAWYER:** Okay.

8 Thank you.

9 **PRESIDING COMMISSIONER SAWYER:** Mr.
10 Agrio go ahead and tell us why you feel you're
11 suitable for parole.

12 **INMATE AGRIO:** Thank you, sir. If I
13 may, sir, I would like to respond first to some
14 of the comments that the district attorney made.

15 **PRESIDING COMMISSIONER SAWYER:** Uh-huh.

16 **INMATE AGRIO:** This question keeps
17 coming up hearing after hearing about my lack of
18 insight into what happened. My understanding of
19 what insight is, is a clear understanding of
20 what factors came into place that led one to act
21 the way they did. I have done everything
22 extensive therapy, sir, not only one-on-one but
23 with every self-help group that has come my way.
24 I have applied myself into trying to find out
25 what were the sort of things that made me act
26 the way that I did, and I think that I was
27 accomplished that, sir. I have responded about

1 what brought about the situation on that tragic
2 night that took my wife's life was nothing more
3 than a volatile cocktail of anger and
4 frustration that led to me acting in poor
5 judgment. I think that's insight. I always
6 know why I felt that way. I grew up in a
7 culture that demanded something -- certain
8 things from a man. They were wrong. I reject
9 them today, but nevertheless at that time that's
10 how I felt and that's how I perceived things to
11 be. I am not running away from my actions. I
12 am taking full responsibility for what I did.
13 If I have committed some omissions in the past
14 in regards of what happened they have been done
15 so because of a faulty memory not because of
16 intent to deceive anyone. My wife and I had a
17 very good relationship and the whole, but from
18 time to time things would go wrongfully. This
19 report that the district attorney was eluding to
20 about the San Diego Police Department was a
21 situation that took place on a night that a
22 friend of mine from the marine core came too
23 solicit with me in San Diego and wanted to go
24 out with me. My wife wanted to come with us and
25 my friend didn't feel like it would be
26 appropriate for her to come with us based on the
27 places that we wanted to visit. She became very

1 upset and we got into an argument and I struck
2 her. She later was contacted by the Internal
3 Affairs investigator and she made a statement,
4 sir, that I think is relevant to this situation.
5 She said that it is written here that:

6 Mrs. Agrio advised this
7 enterprise that she does not
8 want to pressure charges against
9 letter husband and to the entire
10 incident. She told him that her
11 husband -- she and her husband
12 have worked out their problems.
13 She was sorry that she called
14 the police and only did so
15 because she was very upset.
16 Lieutenant Price explained to
17 Mrs. Agrio that the defendant
18 has an obligation to investigate
19 incidents of alleged misconduct
20 by police officers because they
21 are in a position of public
22 trust. Mrs. Agrio explained to
23 Lieutenant Price that she's a
24 very moody person with a quick
25 temper. She further states that
26 she often regrets doing or
27 saying something soon after one

1 of her outburst such as in this
2 incident.

3 I would like to follow that up, sir with a
4 testimony that was given by a friend of the
5 family Mrs. Jill Brogan (phonetic) at the time
6 of the trial, sir. She was calling to mediate
7 some domestic problems that we were having, and
8 I just want to read this particular part here
9 where she says that --

10 **ATTORNEY FOX:** What are you reading
11 from?

12 **INMATE AGRIO:** This is the opening
13 brief of my appeal, sir and this is testimony
14 that was taken out of the trial transcript, and
15 just quick very briefly, sir she said

16 Brogan, which was the person
17 that testified said thought that
18 each knew how to push the others
19 buttons. She did not think that
20 or everyone hesitated to do that
21 if he or she wanted to Brogan
22 and did think that they loved
23 each other very much. Other
24 than the occasion at the Super
25 Bowl, Brogan had no personal
26 knowledge of any other
27 disagreement between them.

1 And of course there's a lot more to that than
2 what I've just read. What I've just wanted to
3 point out, sir, that when it comes to insight I
4 think that I have gained a tremendous deal of
5 insight that has happened in my life that I
6 needed to change and I have taken steps to do
7 that. And I think it is an error on the part of
8 the district attorney to continue to hold on to
9 that crutch and claim that I lacked insight in
10 the commitment offence and I also take issue
11 with the position that they take that I'm
12 manipulative. I'm not disrespecting my wife. I
13 am not playing one woman against the other. I
14 am not romantically involved with Rosy. She's a
15 dear friend who will do anything that she can to
16 help me and if I omitted to bring this up with
17 my wife it's not because I'm trying to deceive
18 her or disrespect her it's just that I don't
19 think that it is anything to be said by that at
20 the time because I don't know where I'm going to
21 be paroling. It very well could be that if I'm
22 granted parole that I would go to San Louis
23 Obispo or Morro Bay and that's the end of that.
24 Now, I would like to close, sir, with some a
25 brief statement that I've made in terms of where
26 I'm at with this situation here. If I may
27 proceed?

1 It is with a deep since of
2 remorse and regret that I
3 express full and complete
4 responsibility for the homicide
5 that resulted in my
6 incarceration. The homicide was
7 committed during a heating
8 argument in which I was the
9 responsible party. The act of
10 taking a life goes against the
11 laws of God and the laws of the
12 society that we live in. My
13 actions were wrong and with my
14 heart and soul I pray daily for
15 forgiveness. I emphasize my
16 sorry for the life taken, which
17 I'm guilty of taking away. I
18 shall remain in remorse with
19 prayers for our souls. I'm
20 begging for forgiveness and
21 (indiscernible) not a day goes
22 by that I don't feel the pain
23 and suffering that my judgment
24 caused those that were left
25 behind to deal with this
26 horrific tragedy. Indeed the
27 other devastation was felt

1 immediately upon realizing the
2 magnitude of my error. I have
3 tried to reach out to those whom
4 I have harmed and have accepted
5 the consequences of my actions
6 by meeting all demands placed
7 upon me by the criminal justice
8 system. I sympathize and
9 empathize with the surviving
10 relatives of the victim and wish
11 somehow that I could rid them of
12 their pain and suffering. The
13 loss of life was not necessary
14 and could have been avoided had
15 I'd been willing to seek
16 counseling and advise from those
17 qualified to dispense it. Since
18 that time, I have subjected
19 myself to therapy at the hands
20 of professionals in an effort
21 to understand the underlining
22 factors that triggered by
23 behavior and remain availability
24 to do whatever is necessary to
25 help bring closure of this
26 situation and the life of all
27 those affected. Over the years

1 of incarceration, I have made an
2 honest effort to make amends for
3 the negative behavior that
4 characterized my life in the
5 past, and in order to improve my
6 conscious contact with God, I
7 have relied on daily prayers and
8 meditations and God's work.
9 Fortunately CDC has made this
10 process of improvement possible
11 through self-help programs and I
12 have taken full advantage of
13 these spiritual programs. It
14 has been a blessing from a life
15 to have a strong support from my
16 family and friends. My mother
17 has provided a strong healing
18 foundation for my life. Through
19 our strong belief in the Lord,
20 we have maintained a healing
21 fellowship. Every human life is
22 precious and (indiscernible) in
23 the understanding and guides my
24 daily life. Indeed all life is
25 a creation under the loving God
26 and every soul is connected in
27 life. Each one is member of the

1 human family. At the time of
2 this terrible tragedy, I was
3 experiencing a great deal of
4 stress in my life, stress that
5 was created by my attempt to
6 manage simultaneously in my
7 professional career. My pursuit
8 of a law degree, married life, a
9 newborn baby, and an addiction
10 problem I was not equipped to
11 deal with. I overextended
12 myself in an attempt to climb
13 the ladder of success and became
14 afraid of the notion that my
15 goals and ambitions were being
16 put in jeopardy by someone that
17 I loved. I felt I was being
18 intentionally deceived and lied
19 to and I sought to obtain
20 answers and explanations that
21 would pacify my fears at a time
22 ill-suited for that. My fears
23 and concerns caused me to
24 overreact and lose control of my
25 emotions, which in turn led to
26 the horrible tragedy I now live
27 with. I'm now aware of the

1 factors that triggered my
2 response and feel confident I
3 will not face a similar
4 situation.

5 Thank you.

6 **DEPUTY COMMISSIONER MITCHELL:** I need a
7 piece of clarification? You mentioned an
8 addiction problem.

9 **INMATE AGRIO:** Yes, sir. The addiction
10 was on the part of my wife, sir, I believe that
11 she had a problem with drinking and we sought
12 counseling during our marriage and during the
13 time that we were just dating and the counseling
14 was stopped. The therapy was not pursued and I
15 felt that I could handle it on my own and I'm
16 stating today that I was not equipped to do that
17 and therefore some of the anger and frustration
18 that I felt with what was going on.

19 **DEPUTY COMMISSIONER MITCHELL:** Okay.
20 Thank you for clarifying that.

21 **PRESIDING COMMISSIONER SAWYER:** Ms.
22 Medina, this is your opportunity to tell us why
23 you feel he's not suitable for parole.

24 **MS. MEDINA THROUGH INTERPRETER:** Can we
25 start with the first day of what happened? May
26 God forgive him because I am not going to
27 forgive him. Even if he stayed all this time in

1 jail he wouldn't pay for what he did of the
2 crime he did. I have my grandson at home and
3 day by day I'm remembering the need. He's
4 really missing his parents. He's really needed
5 his parents. It's not easy coming here and
6 hearing everything, and she's up with God and I
7 have to defend her.

8 MS. MEDINA: That's all.

9 INTERPRETER MORTON: That's all?

10 MS. MEDINA: Yeah.

11 INTERPRETER MORTON: That's it.

12 PRESIDING COMMISSIONER SAWYER: That's
13 all. Thank you.

14 ATTORNEY FOX: Here's a Kleenex.

15 PRESIDING COMMISSIONER SAWYER: It's
16 3:46 in the afternoon and we will recess for
17 deliberations.

18 ATTORNEY FOX: Thank you.

19 R E C E S S

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1 CALIFORNIA BOARD OF PAROLE HEARINGS

2 D E C I S I O N

3 DEPUTY COMMISSIONER MITCHELL: We're on
4 record.

5 PRESIDING COMMISSIONER SAWYER: Okay.

6 This is the case of Mr. Agrio and the time is
7 4:12 in the afternoon. We are reconvened. Now
8 the panel's reviewed all the documents -- all
9 the information received from the public and
10 relied on the follow circumstances in concluding
11 that the prison is not suitable for parole and
12 would pose an unreasonable risk of danger to
13 society or threat to public safety if released
14 from prison. We're going to deny your parole
15 for three years, sir, and I'm gong to tell you
16 why. The offense in this case was particularly
17 cruel and callous absolutely no motive. There
18 was no reason for this offense to have ever
19 occurred. It was certainly carried out in a
20 dispassionate manner. I have wouldn't go as far
21 to say it's an execution-style, sir. I would
22 certainly say it's more than unintentional act
23 or more than an accidental death given your --
24 given your history as a police officer, given
25 your history as a Marine around firearm, I just
26 find -- I do not understand how this could have
27 PABLO AGRIO E-17284 DECISION PAGE 1 12/06/05

1 happened. If there wasn't -- without retrying
2 this case at all you are here for second-degree
3 murder. I think there was certainly a crime of
4 passion. We think it's a crime of passion. On
5 the evening of March 26, 1988, at proximately
6 11:30 p.m. your wife Alma age 23-year-old was
7 shot to death by you over an incident that
8 should have never escalated to clearly over that
9 point. Along with those lines we were really
10 wrestling with some of the things --

11 **ATTORNEY FOX:** Excuse me Commissioner,
12 Mr. Agrio would like to leave the room and I
13 will conclude the reading with just me present.

14 **PRESIDING COMMISSIONER SAWYER:** Okay.

15 **ATTORNEY FOX:** Okay.

16 **PRESIDING COMMISSIONER SAWYER:** Good
17 luck to you Mr. Agrio. Several issues as to why
18 we determine three years. We were really
19 wrestling and we were really -- we really had a
20 problem with his minimalization [sic] in this
21 first of all. He appears to be attempting to
22 word smith this crime by changes his description
23 of this from accidental to unintentional act.
24 Those are very far apart. His version of this
25 changing the words from angry and infuriated
26 downsizing those words for a lack of better
27 **PABLO AGRIO E-17284 DECISION PAGE 2 12/06/05**

1 terms to upset referring to them as upset, which
2 makes him look a little better a little nicer.
3 Another issue that we felt he is not taking
4 responsibility for this particular crime, which
5 until he takes responsibility for this crime I
6 don't think he'll -- or at least this panel
7 won't receive a date but his honesty to his wife
8 Cathleen as soon as I -- as soon as he said she
9 didn't know -- Ms. Hall, Rosy Hall down in San
10 Diego didn't know that she was part -- that he
11 had not told Cathleen that Ms. Hall was part of
12 his plan and if he got paroled to Morro Bay he
13 would never disclose that. I think that's
14 deception. The psychiatric report in this case
15 is -- has been invalidated by the fact that he
16 told the psychiatrist that he had never to
17 quote. Agrio he said some things here that just
18 totally not taking responsibility. He may have
19 mishandled the situational stress of being
20 married to a wife who had a drinking problem and
21 would not listen to her attempts to talk. She
22 would not listen to his attempts to talk to her
23 in a mature manner. He's making it her fault.
24 He's putting the monkey on her back. His
25 statement that he never battered his wife was a
26 totally. And I think there's something to say
27 **PABLO AGRIO E-17284 DECISION PAGE 3 12/06/05**

1 about the fact that he didn't want to hear the
2 truth here and didn't want to face the facts and
3 left the hearing prematurely. The reason -- one
4 of the reasons that people in law enforcement
5 and people with experience with domestic
6 violence know it happens all the time, and that
7 is when a woman is battered police are called,
8 she calls them as the right thing to do, and
9 then as soon as things settle down then she
10 recants and that's what appears to have happened
11 here when the internal investigation was taking
12 place, she backed off because she's going to
13 lose. If he loses his job or gets suspended
14 then she's going to lose. If he gets convicted
15 of battery then she's going to lose and so I
16 mean this is typical where the spouse backs off.
17 I think he was -- the most honest I think he was
18 to us here today or to the system was the
19 statement that I read earlier that he had made
20 in 19 or -- or May 31, 1989, when he analyzed
21 the cultural terms of a Latin family where a man
22 is the boss of the house and ordinarily the wife
23 jumps at the snap of a finger. He indicates
24 that today's younger people are not
25 traditionalist in an attempt to explain his
26 position. He states that no matter how much
27 **PABLO AGRIO E-17284 DECISION PAGE 4 12/06/05**

1 time he has to do, there's no guarantee that he
2 would not ultimately wind up in a similar
3 position under similar circumstances. I think
4 he's right on. I think he's right on, and if
5 you study cultures you know that some cultures a
6 lot of cultures have their cultural things
7 sometimes in different cultures you have to
8 break those. From those -- those are the
9 reasons that we -- that we're giving him for
10 this multiple year, three year defile. His
11 previous record absolutely no jail time, no
12 criminal conduct that we know of, however, he
13 does have, as evidenced in more than one place,
14 a record of violence of assaultive behavior
15 leading up to this incident. His institutional
16 behavior he's had one 128A. He should be
17 commended for his institutional behavior no 115.
18 He knows how to operate within an institution.
19 He was a good Marine. He was a good policemen,
20 and he's being a model prisoner and I think that
21 he responds well to institutionalization, and
22 that 128 was in 1991 for contraband and he gave
23 us a reason that sounded pretty reasonable to
24 me. He was new on the block. Psychiatric
25 factors as I mentioned before the psychiatric
26 evaluation in conclusion that in terms of
27 **PABLO AGRIO E-17284 DECISION PAGE 5 12/06/05**

1 dangerousness and all the terms I believe is
2 invalid because the fact that he with held
3 valuable information from us -- from the
4 psychologist Mr-- Dr. Macumber. That psych was
5 done in December of '03. His parole plans
6 outstanding accept for one problem as I
7 explained to him and in particular we see a lot
8 of Morro Bay. We see a lot of San Louis Obispo
9 because there's a prison there and as we didn't
10 talk about how he met Cathleen Boyd. There's a
11 lot of marriages that go on and a lot of the
12 spouses live in the San Louis Obispo, Morro Bay,
13 Pismo Beach area and while it's not impossible
14 to parole a person to San Louis Obispo County,
15 it's -- we would like to see an alternative plan
16 particularly San Diego. I would think that if
17 Cathleen Boyd Agrio loves him and wants to care
18 for him that one of the other options would be
19 that she would move to San Diego and establish a
20 residence, a residence in San Diego. I --
21 Commissioner Mitchell and I talked about this
22 how dishonest we felt this was to his wife Rosy
23 Hall -- to his wife Cathleen Boyd Agrio as to
24 not disclose to Rosy Hall that he was going to
25 live with another woman. I know my
26 circumstances and Commissioner Mitchell knows
27 **PABLO AGRIO E-17284 DECISION PAGE 6 12/06/05**

1 his circumstances and it wouldn't happen in
2 house household. It just wouldn't happen. The
3 other alternative was Philadelphia P.A. and
4 that's not very logical. In terms of parole
5 plans he does a great job at getting letters
6 back up to his marketable skills. There's no
7 question that this man could be a success --.
8 The law business on the outside Commissioner
9 Mitchell brought up some ideas for him in terms
10 of starting the process to get his bar card as
11 to how -- he gave suggestion as to how he should
12 be pursuing that in the State of California.
13 The 3042 response the San Diego county District
14 Attorney (indiscernible) was parole for Mr.
15 Agrio, and as you read this I'm going to stop
16 beating this up, but I want to make sure the
17 record reflects the good things that you have
18 done. You are a disciplinary clerk as of '04,
19 you've done data processing, vocations,
20 (indiscernible) in the kitchen and found out
21 you'd rather be clerking. You've got
22 satisfactory to exceptional work reports.
23 You've got (indiscernible) which you have
24 accomplished as well as computer repair. You've
25 obtained your law degree. You've been through
26 the Impact course. You've been in the business
27 **PABLO AGRIO E-17284 DECISION PAGE 7 12/06/06**

1 course, Cage the Rage, anger management in '04
2 and '05, hazardous materials, Buddhist
3 meditation and AA since year 2000. You've done
4 the spiritual recovery program. You were active
5 in the Veterans group, musical therapy, prison
6 ministry as well as a volunteer worker in the
7 arts and hobbies area -- arts and corrections I
8 should say. You've received numerous laudatory
9 Chronos for your work. It appears that you have
10 a great work ethic and that you put your heart
11 and soul into your work and into your vocations
12 and into your self-help projects that you have
13 been involved in. In a separate finding we are
14 going to say that you are to confront your
15 demons in terms of the insight into the crime,
16 your responsibility into this crime. It just
17 didn't happen there was -- this was a crime of
18 passion and we would encourage you to be honest
19 with your wife and we would encourage you not to
20 have such selective and minimalized [sic]
21 memory. The recommendations in this case would
22 be to continue your behavior (indiscernible),
23 continue to get self-help, and again your parole
24 denial is three years. Commissioner Mitchell do
25 you have anything you'd like to say?

26 DEPUTY COMMISSIONER MITCHELL: Good

27 PABLO AGRIO E-17284 DECISION PAGE 8 12/06/05

106

1 **PRESIDING COMMISSIONER SAWYER:** Good

2 luck to you Mr. agree owe --

3 **ATTORNEY FOX:** Thank you.

4 **PRESIDING COMMISSIONER SAWYER:** -- and

5 that concludes this parole hearing.

6 **ATTORNEY FOX:** Thank you.

7 **PRESIDING COMMISSIONER SAWYER:** The

8 time is now 27 minutes after four.

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23 **PAROLE DENIED THREE YEARS**

24 **THIS DECISION WILL BE FINAL ON: Apr. 5, 2006**

25 **YOU WILL BE PROMPTLY NOTIFIED, IF PRIOR TO THAT**

26 **DATE, THE DECISION IS MODIFIED.**

27 **PABLO AGRIO E-17284 DECISION PAGE 9 12/06/05**

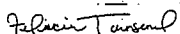
107

CERTIFICATE AND
DECLARATION OF TRANSCRIBER

I, FELICIA TOWNSEND, a duly designated transcriber, PETERS SHORTHAND REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 - 106, and which recording was duly recorded at CALIFORNIA TRAINING FACILITY, SOLEDAD, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING OF PABLO AGRIO, CDC NO. E-17284, on DECEMBER 06, 2005, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape to the best of my ability.

I hereby certify that I am a disinterested party in the above-mentioned matter and have no interest in the outcome of the hearing.

Dated DECEMBER 23, 2005, at Sacramento,
California.


Felicia Townsend
Transcriber
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